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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/540,242

06/22/2005

Carl J Braunreiter

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08/21/2008

3M INNOVATIVE PROPERTIES COMPANY

PO BOX 33427

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EXAMINER

KASHNIKOW, ERIK

ART UNIT

PAPER NUMBER

1794

NOTIFICATION DATE

DELIVERY MODE

08/21/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/540,242	BRAUNREITER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	ERIK KASHNIKOW	1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 24-43 is/are pending in the application.
- 4a) Of the above claim(s) 36-43 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>08/15/05, 08/31/06, 08/01/07</u> .                            | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Election/Restrictions***

1. Claims 36-43 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected method, there being no allowable generic or linking claims. Applicant timely traversed the restriction (election) requirement in the reply filed on 07/01/08.

2. Applicant's election with traverse of the article in the reply filed on 07/01/2008 is acknowledged. The traversal is on the ground(s) that the method is directed to a process specially adapted to manufacture the process. This is not found persuasive because the special technical feature of Applicant's invention, in this case the article, is taught by Sanocki et al. (WO 97/48890). As set forth in MPEP 1850 where a group of inventions is claimed, the requirement of unity of invention shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features wherein a special technical feature means those technical features that define a contribution over the prior art. Therefore while the present claims are drawn to product and process specially adapted for the manufacture of the product, the article does not define a contribution over the prior art, there is no special unifying invention, and therefore there is a lack of unity.

The requirement is still deemed proper and is therefore made FINAL.

***Oath/Declaration***

3. The oath/declaration is objected to due to the incorrect filing date for the PCT priority application. The date currently states 01/22/2005, when in actuality the date should be 01/22/2004. Appropriate correction is required.

***Specification***

4. The use of the trademark MAFTEC®, FIBERMAX™, KAOWOOL®, CERAFIBER®, CERAWOOL®, CERACHEM®, RHOPLEX™, AIRFLEX®, SANTICIZER® and FOAMMASTER® has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 30-35 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In this instance it is not clear what the difference between disposed between and sandwiched between means, and therefore the scope

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of the invention is not clear. It is noted that these claims ultimately depend on claim 24 which recites an end insulator disposed between inner and outer end cone housings.

***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 24, 26-30 and 32-35 are rejected under 35 U.S.C. 102(b) as anticipated by Fernando et al. (WO 99/46028).

8. In regards to claims 24, 26-30 and 32-35 Fernando et al. teach the formation of an insulating support device disposed between and inlet and outlet end cone housings in an antipollution device (page 1 lines 5-16 and page 10 lines 14-25). Fernando et al. teach that the insulation material is made from a fiber mixture with an organic binder (page 12, lines 7-9 and page 14 lines 13-25). Fernando et al. teach that the fiber mixture comprise ceramic fibers with 40-60% of both alumina and silica (page 12 line 20 to page 13 line 2). Fernando et al. further teach that the fibers have a crystallinity of about 5-50%. In regards to the shrink percentage as well as the compressibility value, since Fernando et al. teach the same materials as those presently claimed, the values would be inherent. It is also pointed out that since the ceramic fibers being used fulfill all the same limitations as those presently claimed, i.e. with regards to type and concentration, then the bulk shrinkage would also be inherent. Fernando teach that the mat is not intumescent (page 12 lines 15-19), teach casting the mats so as to form

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the mats into whatever shape desired, without creating any seams, is not brittle and can support itself, and is flexible (page 16 lines 18-27). In regards to the shapes Fernando teaches that the materials are used for catalytic converters as well as diesel particulate traps and the like, and that the shape of the invention will be adjusted to fit the invention.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 25 and 31 are rejected under 35 U.S.C. 103(a) as obvious over Fernando et al. (WO 99/46028) in view of Sanocki et al. (WO 97/48890).

11. As stated above Fernando et al. teach an insulator for an anti pollution device as described by Applicant's however is silent regarding the insulator being part of an end cone.

12. In regards to claim 25 and 31 Sanocki et al. teach insulator mats for use in end cones which comprise organic binders and alumina and silica inorganic fibers (Example 2). Sanocki et al. further teaches that these mats are attached to the end cone (page 3 lines 9-22).

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13. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the insulator of Fernando et al. with the insulator mat of Sanocki et al. because the insulator mat of Fernando et al. which has improved resilience and support properties (page 1 lines 9-11) would benefit from the resistance to damages from hot gases and road shock of the insulator mat of Sanocki et al (page 3 lines 5-6).

### ***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lawrence et al. (US 6,010,688) discloses that it is well known in the art to place the insulation mats between an inner and outer end cone housing on one inlet or outlet end cone (column 1 lines 52-62).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIK KASHNIKOW whose telephone number is (571)270-3475. The examiner can normally be reached on Monday-Friday 7:30-5:00PM EST (Second Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Callie Shosho can be reached on (571) 272-1123. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Erik Kashnikow  
Examiner  
Art Unit 1794

/Callie E. Shosho/  
Supervisory Patent Examiner, Art Unit 1794